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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

SAMUEL CASTRO,

Defendant and Appellant.

G053072

(Super. Ct. No. P-00281)

O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County,
James A. Stotler, Judge. Affirmed.

Dawn S. Mortazavi, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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The Department of Corrections and Rehabilitation petitioned for revocation of defendant Samuel Castro's parole, alleging defendant had violated his parole by admitting he used alcohol; spending the night away from his residence without prior approval; disabling his GPS tracking device; possessing drug paraphernalia; and possessing sexually explicit material. At the completion of the revocation hearing, the court reinstated defendant's parole, committed him to jail for 180 days, credited him for 164 days of presentence custody, and ordered him to pay a \$200 parole revocation fine.

Defendant appealed from the court's order, and we appointed counsel to represent him. Counsel did not argue against defendant, but advised she was unable to find an issue to argue on defendant's behalf. Defendant was given an opportunity to file written argument on his own behalf, but he did not do so.

We have examined the entire record but have not found an arguable issue. (*People v. Wende* (1979) 25 Cal.3d 436.) Accordingly, we affirm the court's order.

FACTS

The Revocation Hearing

"It is our duty to 'view the evidence in a light most favorable to respondent and presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence.'" (*People v. Pensinger* (1991) 52 Cal.3d 1210, 1237.) At the revocation hearing, the court admitted into evidence, as People's exhibit 1, a special conditions of parole document listing defendant's parole conditions. The sole witness for the People was defendant's parole agent Rick Nava, who testified that his partner had gone over the special conditions of parole document with defendant. Defendant had signed the document to acknowledge this. Defendant's parole conditions included that he must (1) not possess or consume any alcoholic beverage; (2) obtain approval before spending the night away from his residence; (3) charge his GPS device

twice a day at 12-hour intervals; (4) not use or have access to drugs or drug paraphernalia; and (5) not possess any pornographic material.

During an October 23, 2015¹ meeting between Nava and defendant, defendant admitted he had used alcohol that day and had spent the previous night at a motel² with a woman. Nava instructed defendant to return to his residence that night.

But that night, defendant left a message for Nava, stating he planned to stay at the motel because he could not go home. Around 2:00 a.m., the following morning, a GPS monitoring company notified Nava that defendant's GPS device battery had died. Nava texted defendant, ordering him to charge the GPS device. Nava's supervisor instructed him to go with his partner to defendant's last known location. According to the GPS charging record, defendant obeyed Nava's order and plugged the device into the charger. But Nava was already on his way to the motel to find defendant.

When Nava arrived at the motel, his partner was already talking with defendant in the parking lot. The agents secured defendant in the vehicle.

The agents then went into defendant's motel room, where they found another man and contraband in plain view. The contraband consisted of marijuana, pornographic material, a syringe, and a glass pipe. The marijuana was on a table in the room. The pornographic material was on the floor and in the drawer of the nightstand. The syringe and glass pipe were in the room's patio.

Defendant told Nava that he had charged the GPS device twice on October 23. The charger for the device was in the motel room. Defendant stated the charger must not be working. The GPS device company reported the device was charged on October 22, from 11:27 p.m. to 11:41 p.m., and then on October 24, from 2:46 a.m. to 2:51 a.m.

¹

All dates are to the year 2015 unless otherwise stated.

²

Testimony at the hearing included interchangeable references to a "motel" and a "hotel."

Following Nava's testimony, the People rested.

Defendant called as a witness a defense investigator for the public defender's office, and also testified on his own behalf.

The Court's Ruling

The court found defendant had violated the five parole conditions as alleged in the revocation petition. It found Nava to be "very credible," but found defendant was "evasive in his testimony." As noted above, the court reinstated defendant's parole and committed him to jail for 180 days, giving credit for 164 days of presentence custody. It also ordered him to pay a \$200 parole revocation fine.

DISCUSSION

No Arguable Issue Can Be Found

Counsel did not argue against defendant, but advised the court no issues were found to argue on defendant's behalf. (*People v. Wende, supra*, 25 Cal.3d 436.) We concur with defendant's counsel.

To assist in our independent review of the record, and pursuant to *Anders v. California* (1967) 286 U.S. 738, counsel has suggested we considered four issues in our search for error. We have consider the issues suggested by counsel and have reviewed the entire record. Counsel's assessment was correct. There is no issue arguable on appeal.

DISPOSITION

We affirm the postjudgment order.

IKOLA, J.

WE CONCUR:

FYBEL, ACTING P. J.

THOMPSON, J.